

**RULES
OF
DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-1
ADMINISTRATIVE RULES AND REGULATIONS**

560-12-1-.16. Direct Pay Reporting.

(1) Definition. "Direct payment permit" means a permit issued by the Department of Revenue that allows the holder of such permit to accrue and pay state and local sales and use taxes directly to the Department.

(2) Expiration of direct payment authorization issued prior to October 1, 2016.

(a) All permits, letters, and certificates issued prior to October 1, 2016 authorizing taxpayers to report and pay sales and use tax directly to the Department will expire on December 31, 2016 and can no longer be used to make purchases after that date.

(b) Direct payment permits issued on or after October 1, 2016 will be effective the later of January 1, 2017 or the date of issuance.

(3) Application Process.

(a) Applicants for a direct payment permit must apply to the Department on an application containing

1. the applicant's name, address, and sales and use tax account number(s) for which direct payment will be made; and
2. an attestation that

(i.) the applicant is able to comply with the sales and use tax laws and reporting and payment requirements;

(ii.) the applicant is current on all tax filings and payments in this state; and

(iii.) direct payment will benefit the applicant's tax compliance by accomplishing one or more of the following:

(I) reduced administrative work in determining taxability or collecting, verifying, calculating, or remitting the tax;

(II) improved compliance with the tax laws of this state;

(III) improved compliance in circumstances where determination of taxability of the item is difficult or impractical at the time of purchase;

(IV) more accurate calculation of the tax where new or electronic business processes such as electronic data interchange, evaluated receipts settlement, or procurement cards are utilized; or

(V) more accurate determination and calculation of tax where significant automation and/or centralization of purchasing and/or accounting processes have occurred and the applicant must comply with the laws and regulations of multiple state and local jurisdictions.

(b) The Department will issue one permit for each legal entity that meets the requirements of this Rule. The permit is valid for purchases of property delivered to any of the entity's locations.

(4) Waiver of Interest. In exchange for the privilege of making purchases with a direct payment permit, permit holders agree to waive interest on refunds of taxes remitted on purchases made with the direct payment permit.

(a) Use of a direct payment permit to make purchases on or after January 1, 2017 constitutes the permit holder's waiver of interest with respect to any refunds of tax overpaid for those purchases.

(b) For example, John Smith makes purchases on January 1, 2017 without the payment of sales tax using his direct payment permit. In September 2017 he remits taxes due on the purchases. On February 1, 2018 he requests a refund for the overpayment of the taxes. Because Mr. Smith made the purchases on or after January 1, 2017 using his direct payment permit, Mr. Smith will not receive interest on his tax refund.

(5) Reporting of Tax. Each holder of a valid direct payment permit must accrue and pay directly to the Department the taxes due for all taxable property and services purchased using a direct payment permit. Such taxes are due and payable on the sales and use tax return next due following the date on which a determination of taxability is, or in the exercise of reasonable care should be, made for a given transaction, unless otherwise provided by written agreement between the taxpayer and the Department.

(6) Certain Transactions Not Permitted. Use of a direct payment permit is prohibited for

- (a) purchases of meals, beverages, or tobacco;
- (b) purchases of local telephone services, transportation of persons, or lodging accommodations and ancillary charges associated with lodging accommodations;
- (c) purchases of admissions to places of amusement, entertainment, or athletic events; admissions to displays or exhibitions; participation in games or sports; or charges for the use of amusement devices; and

(d) rental charges for periods of 31 or fewer consecutive days of motor vehicles required to be titled in this state.

(7) Permit Holder's Duties. The holder of a direct payment permit must

(a) furnish a copy of the direct payment permit to each vendor from which the holder purchases tangible personal property or services. For purchases made using a direct payment permit, a permit holder is not required to present an additional exemption certificate and is not, except as otherwise provided, required to pay sales tax to the holder's vendors as prescribed in O.C.G.A. § 48-8-35;

(b) accrue and remit state and local sales and use tax directly to the Department on all taxable property and services not taxed at the time of sale;

(c) maintain and make available upon Department request all records that are necessary to determine the correct tax liability;

(d) file sales and use tax returns and pay any sales and use tax due on a monthly basis unless otherwise permitted by the Department; and

(e) maintain good standing with respect to all tax laws of this state.

(8) Vendor's Responsibilities. Receipt in good faith of the direct payment permit, or other acceptable evidence that the holder has been granted a direct payment permit, relieves the vendor of the responsibility of collecting the sales tax on sales made to a direct payment permit holder on qualifying transactions. Vendors who make sales on which the tax is not collected by reason of the provisions of this Rule must maintain records in such manner that the amount involved and identity of the purchaser may be ascertained.

(9) Nontransferable. A direct payment permit is not transferable; therefore, the use of a direct payment permit may not be transferred or assigned to a third party (including but not limited to a subsidiary, affiliate, or new business entity created in a restructuring).

(10) Revocation of Permit. Direct payment permits may be denied or revoked by the Department at any time the Department determines that the person holding the permit has not complied with the provisions of this Rule or that the revocation would be in the best interests of the state. The notice of revocation must be in writing and effective as of the end of the direct payment permit holder's normal reporting period. Any person whose direct payment permit is either voluntarily forfeited or revoked by action of the Department must return the permit to the Department and immediately notify all vendors from which purchases of taxable items are made that such person's direct payment permit is no longer valid.

(11) Business Restructuring. In the case of a business restructuring, the permit holder must apply for a new permit if the Department issues a new State Tax Identification Number.

Authority: O.C.G.A. §§ 48-2-7, 48-2-12.